

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Government Code
Chapter 543
4/21/22

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17 CHAPTER 543. CLINICAL INITIATIVES TO IMPROVE MEDICAID QUALITY OF
18 CARE AND COST-EFFECTIVENESS
19 SUBCHAPTER A. GENERAL PROVISIONS

20 Revised Law

21 Sec. 543.0001. EFFECT OF CHAPTER ON COMMISSION'S AUTHORITY.
22 This chapter does not affect the commission's authority, or give
23 the commission additional authority, to:
24 (1) affect any individual health care treatment
25 decision for a Medicaid recipient;
26 (2) replace or affect:
27 (A) the process of determining Medicaid

1 benefits, including the approval process for receiving benefits for
2 durable medical equipment; or

3 (B) any applicable approval process required for
4 reimbursement for services or other equipment under Medicaid;

5 (3) implement a clinical initiative or associated rule
6 or program policy that is otherwise prohibited under state or
7 federal law; or

8 (4) implement any initiative that would expand
9 eligibility for Medicaid benefits. (Gov. Code, Sec. 538.002.)

10 Source Law

11 Sec. 538.002. EFFECT OF CHAPTER; AUTHORITY OF
12 COMMISSION. This chapter does not affect or give the
13 commission additional authority to:

14 (1) affect any individual health care
15 treatment decision for a Medicaid recipient;

16 (2) replace or affect the process of
17 determining Medicaid benefits, including the approval
18 process for receiving benefits for durable medical
19 equipment, or any applicable approval process required
20 for reimbursement for services or other equipment
21 under Medicaid;

22 (3) implement a clinical initiative or
23 associated rule or program policy that is otherwise
24 prohibited under state or federal law; or

25 (4) implement any initiative that would
26 expand eligibility for benefits under Medicaid.

27 Revised Law

28 Sec. 543.0002. RULES. The executive commissioner shall
29 adopt rules necessary to implement this chapter. (Gov. Code, Sec.
30 538.003.)

31 Source Law

32 Sec. 538.003. RULES. The executive
33 commissioner shall adopt rules necessary to implement
34 this chapter.

35 Revised Law

36 Sec. 543.0003. INTERNET WEBSITE. The commission shall
37 maintain an Internet website related to the quality improvement
38 process required under this chapter. The website must include:

39 (1) an explanation of the process for submission,
40 preliminary review, analysis, and approval of a clinical initiative
41 under this chapter;

42 (2) an explanation of how members of the public may

- 1 submit comments or research related to an initiative;
- 2 (3) a copy of each initiative selected for analysis
3 under Section 543.0054;
- 4 (4) the status of each initiative in the approval
5 process; and
- 6 (5) a copy of each final report prepared under this
7 chapter. (Gov. Code, Sec. 538.056.)

8 Source Law

9 Sec. 538.056. INTERNET WEBSITE. The commission
10 shall maintain an Internet website related to the
11 quality improvement process required under this
12 chapter. The website must include:

- 13 (1) an explanation of the process for
14 submission, preliminary review, analysis, and
15 approval of clinical initiatives under this chapter;
16 (2) an explanation of how members of the
17 public may submit comments or research related to an
18 initiative;
19 (3) a copy of each initiative selected for
20 analysis under Section 538.054;
21 (4) the status of each initiative in the
22 approval process; and
23 (5) a copy of each final report prepared
24 under this chapter.

25 SUBCHAPTER B. ASSESSMENT OF CLINICAL INITIATIVES

26 Revised Law

27 Sec. 543.0051. MEDICAID QUALITY IMPROVEMENT PROCESS. The
28 commission shall, in accordance with this chapter, develop and
29 implement a quality improvement process by which the commission:

30 (1) receives suggestions for clinical initiatives
31 designed to improve:

32 (A) the quality of care provided under Medicaid;
33 and

34 (B) the cost-effectiveness of Medicaid;

35 (2) conducts a preliminary review under Section
36 543.0053(2) of each suggestion received under Section 543.0052 to
37 determine whether the suggestion warrants further consideration
38 and analysis; and

39 (3) conducts an analysis under Section 543.0054 of
40 each suggestion that is selected for analysis in accordance with
41 Subdivision (2). (Gov. Code, Sec. 538.051.)

1 (4) the commissioner of state health
2 services;
3 (5) the commissioner of the Department of
4 Family and Protective Services;
5 (6) the commissioner of assistive and
6 rehabilitative services;
7 (7) the medical care advisory committee
8 established under Section 32.022, Human Resources
9 Code; and
10 (8) the physician payment advisory
11 committee created under Section 32.022(d), Human
12 Resources Code.

13 (b) The commission may not accept suggestions
14 under this section for an initiative that:

15 (1) is undergoing clinical trials; or
16 (2) expands a health care provider's scope
17 of practice beyond the law governing the provider's
18 practice.

19 Revisor's Note

20 (1) Section 538.052(a), Government Code, refers
21 to soliciting and accepting suggestions for clinical
22 initiatives from "the commissioner of aging and
23 disability services" and "the commissioner of
24 assistive and rehabilitative services." The
25 commissioner of aging and disability services was the
26 chief administrative officer of the Department of
27 Aging and Disability Services, and the commissioner of
28 assistive and rehabilitative services was the chief
29 administrative officer of the Department of Assistive
30 and Rehabilitative Services. The Department of Aging
31 and Disability Services was abolished September 1,
32 2017, in accordance with Section 531.0202(b),
33 Government Code, which is executed law that expires
34 September 1, 2023. The Department of Assistive and
35 Rehabilitative Services was abolished September 1,
36 2016, in accordance with Section 531.0202(a),
37 Government Code, which is also executed law that
38 expires September 1, 2023. Because those agencies have
39 been abolished, there are no individuals serving as
40 the chief administrative officers of the agencies who
41 would make suggestions for clinical initiatives. The
42 revised law therefore omits the quoted references as
43 obsolete.

1 the submission, preliminary review, analysis, and approval of a
2 clinical initiative. The process must:

3 (1) require that a suggestion for a clinical
4 initiative be submitted to the state Medicaid director;

5 (2) allow the commission to conduct, with the
6 assistance of an appropriate advisory committee or similar group as
7 determined by the commission, a preliminary review of each
8 suggested clinical initiative to determine whether the initiative
9 warrants further consideration and analysis under Section
10 543.0054;

11 (3) require the commission to publish on the Internet
12 website maintained in accordance with Section 543.0003 the criteria
13 the commission uses in the preliminary review under Subdivision (2)
14 to determine whether an initiative warrants analysis under Section
15 543.0054;

16 (4) limit the number of suggestions analyzed under
17 Section 543.0054;

18 (5) require that a suggestion for a clinical
19 initiative selected for analysis under Section 543.0054 be
20 published on the Internet website maintained in accordance with
21 Section 543.0003 not later than the 30th day after the date the
22 state Medicaid director receives the suggestion;

23 (6) provide for a formal public comment period that
24 lasts at least 30 days during which the public may submit comments
25 and research relating to a suggested clinical initiative;

26 (7) require commission employees to analyze, in
27 accordance with Section 543.0054, each suggested clinical
28 initiative selected for analysis; and

29 (8) require the development and publication of a final
30 report in accordance with Section 543.0055 on each clinical
31 initiative selected for analysis under Section 543.0054 not later
32 than the 180th day after the date the state Medicaid director
33 receives the suggestion. (Gov. Code, Sec. 538.053.)

1 Source Law

2 Sec. 538.053. CLINICAL INITIATIVE EVALUATION
3 PROCESS. The commission shall establish and implement
4 an evaluation process for the submission, preliminary
5 review, analysis, and approval of a clinical
6 initiative. The process must:

7 (1) require that a suggestion for a
8 clinical initiative be submitted to the state Medicaid
9 director;

10 (2) require that a suggestion for a
11 clinical initiative selected for analysis under
12 Section 538.054 be published on the Internet website
13 created under Section 538.056 not later than the 30th
14 day after the date on which the state Medicaid director
15 receives the suggestion;

16 (3) provide for a formal public comment
17 period that lasts at least 30 days during which the
18 public may submit comments and research relating to a
19 suggested clinical initiative;

20 (4) allow the commission to conduct with
21 the assistance of appropriate advisory committees or
22 similar groups as determined by the commission a
23 preliminary review of each suggested clinical
24 initiative to determine whether the initiative
25 warrants further consideration and analysis under
26 Section 538.054;

27 (5) limit the number of suggestions that
28 receive analysis under Section 538.054;

29 (6) require the commission to publish on
30 the Internet website created under Section 538.056 the
31 criteria the commission uses in the preliminary review
32 under Subdivision (4) to determine whether an
33 initiative warrants analysis under Section 538.054;

34 (7) require commission employees to
35 perform an analysis of each suggested clinical
36 initiative selected for analysis in accordance with
37 Section 538.054; and

38 (8) require the development and
39 publication of a final report in accordance with
40 Section 538.055 on each clinical initiative selected
41 for analysis under Section 538.054 not later than the
42 180th day after the date on which the state Medicaid
43 director receives the suggestion.

44 Revised Law

45 Sec. 543.0054. ANALYSIS OF CLINICAL INITIATIVES. After
46 conducting a preliminary review of a clinical initiative under
47 Section 543.0053(2), the commission shall analyze the clinical
48 initiative if the commission selects the initiative for analysis.
49 The analysis must include a review of:

50 (1) any public comments and submitted research
51 relating to the initiative;

52 (2) the available clinical research and historical
53 utilization information relating to the initiative;

54 (3) published medical literature relating to the

1 initiative;

2 (4) any adoption of the initiative by a medical
3 society or other clinical group;

4 (5) whether the initiative has been implemented under:

5 (A) the Medicare program;

6 (B) another state medical assistance program; or

7 (C) a state-operated health care program,
8 including the child health plan program;

9 (6) the results of reports, research, pilot programs,
10 or clinical studies relating to the initiative conducted by:

11 (A) institutions of higher education, including
12 related medical schools;

13 (B) governmental entities and agencies; and

14 (C) private and nonprofit think tanks and
15 research groups;

16 (7) the impact the initiative would have on Medicaid
17 if the initiative were implemented in this state, including:

18 (A) an estimate of the number of Medicaid
19 recipients that would be impacted by implementing the initiative;
20 and

21 (B) a description of any potential cost savings
22 to the state that would result from implementing the initiative;
23 and

24 (8) any statutory barriers to implementing the
25 initiative. (Gov. Code, Sec. 538.054.)

26 Source Law

27 Sec. 538.054. ANALYSIS OF CLINICAL INITIATIVES.
28 The commission shall conduct an analysis of each
29 clinical initiative selected by the commission after
30 having conducted the commission's preliminary review
31 under Section 538.053(4). The analysis required under
32 this section must include a review of:

33 (1) any public comments and submitted
34 research relating to the initiative;

35 (2) the available clinical research and
36 historical utilization information relating to the
37 initiative;

38 (3) published medical literature relating
39 to the initiative;

40 (4) any adoption of the initiative by
41 medical societies or other clinical groups;

1 (5) whether the initiative has been
2 implemented under:

3 (A) the Medicare program;
4 (B) another state medical assistance
5 program; or

6 (C) a state-operated health care
7 program, including the child health plan program;

8 (6) the results of reports, research,
9 pilot programs, or clinical studies relating to the
10 initiative conducted by:

11 (A) institutions of higher
12 education, including related medical schools;

13 (B) governmental entities and
14 agencies; and

15 (C) private and nonprofit think tanks
16 and research groups;

17 (7) the impact that the initiative would
18 have on Medicaid if the initiative were implemented in
19 this state, including:

20 (A) an estimate of the number of
21 recipients under Medicaid that would be impacted by
22 implementation of the initiative; and

23 (B) a description of any potential
24 cost savings to the state that would result from
25 implementation of the initiative; and

26 (8) any statutory barriers to
27 implementation of the initiative.

28 Revised Law

29 Sec. 543.0055. FINAL REPORT ON CLINICAL INITIATIVE. The
30 commission shall prepare a final report based on the analysis of a
31 clinical initiative conducted under Section 543.0054. The final
32 report must include:

33 (1) a final determination of:

34 (A) the feasibility of implementing the
35 initiative;

36 (B) the likely impact implementing the
37 initiative would have on the quality of care provided under
38 Medicaid; and

39 (C) the anticipated cost savings to the state
40 that would result from implementing the initiative;

41 (2) a summary of the public comments, including a
42 description of any opposition to the initiative;

43 (3) an identification of any statutory barriers to
44 implementing the initiative; and

45 (4) if the initiative is not implemented, an
46 explanation of that decision. (Gov. Code, Sec. 538.055.)

1 Source Law

2 Sec. 538.055. FINAL REPORT ON CLINICAL
3 INITIATIVE. The commission shall prepare a final
4 report based on the commission's analysis of a clinical
5 initiative under Section 538.054. The final report
6 must include:

- 7 (1) a final determination of:
8 (A) the feasibility of implementing
9 the initiative;
10 (B) the likely impact implementing
11 the initiative would have on the quality of care
12 provided under Medicaid; and
13 (C) the anticipated cost savings to
14 the state that would result from implementing the
15 initiative;
16 (2) a summary of the public comments,
17 including a description of any opposition to the
18 initiative;
19 (3) an identification of any statutory
20 barriers to implementation of the initiative; and
21 (4) if the initiative is not implemented,
22 an explanation of the decision not to implement the
23 initiative.

24 Revised Law

25 Sec. 543.0056. COMMISSION ACTION ON CLINICAL INITIATIVE.
26 After the commission analyzes a clinical initiative under Section
27 543.0054:

28 (1) if the commission determined that the initiative
29 is cost-effective and will improve the quality of care under
30 Medicaid, the commission may:

31 (A) implement the initiative if implementing the
32 initiative is not otherwise prohibited by law; or

33 (B) if implementation requires a change in law,
34 submit a copy of the final report together with recommendations
35 relating to the initiative's implementation to the standing
36 committees of the senate and house of representatives with
37 jurisdiction over Medicaid; and

38 (2) if the commission determined that the initiative
39 is not cost-effective or will not improve quality of care under
40 Medicaid, the commission may not implement the initiative. (Gov.
41 Code, Sec. 538.057.)

42 Source Law

43 Sec. 538.057. ACTION ON CLINICAL INITIATIVE BY
44 COMMISSION. After the commission conducts an analysis
45 of a clinical initiative under Section 538.054:

- 46 (1) if the commission has determined that

1 the initiative is cost-effective and will improve the
2 quality of care under Medicaid, the commission may:
3 (A) implement the initiative if
4 implementation of the initiative is not otherwise
5 prohibited by law; or
6 (B) if implementation requires a
7 change in law, submit a copy of the final report
8 together with recommendations relating to the
9 initiative's implementation to the standing committees
10 of the senate and house of representatives having
11 jurisdiction over Medicaid; and
12 (2) if the commission has determined that
13 the initiative is not cost-effective or will not
14 improve quality of care under Medicaid, the commission
15 may not implement the initiative.